APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/444,889	11/22/1999	MICHAEL G. MIKURAK	AND1P367	9216

29838   7590   04/10/2002

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EXAMINER
VAN DOREN, BETH

ART UNIT	PAPER NUMBER
2163	

DATE MAILED: 04/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _22 November 1999_ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) _1-16_ is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-16_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to. ·

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on _22 November 1999_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

     If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a) ☐ All b) ☐ Some * c) ☐ None of:

         1. ☐ Certified copies of the priority documents have been received.

         2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

     a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)   4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6) ☐ Other: .

DETAILED ACTION

1.　　The following is a non-final, first office action on the merits. Claims 1-16 are pending.

Drawings

2.　　The drawings are objected to because Figure 144 is missing. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3.　　Claims 15 and 16 are duplicates of each other. Applicant is advised that should claim 15 be found allowable, claim16 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Applicant is requested to remove duplicate claim 16.

Claim Rejections - 35 USC § 101

4.　　35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims recite a system comprising "logic". Looking to the specification, there is no disclosure as to any specific physical component that makes up the recited "logic" (i.e., hardware logic constructs) for performing the recited steps. Furthermore, claims 6-8 separately recite the software logic (i.e., computer program code) for performing the recited steps. Construed in light of these factors, the "logic" recited in claims 11-13 is neither

concrete nor tangible since it is referring to mere mental constructs (i.e. logical flow).

Consequently, it is respectfully submitted that the invention as recited in claims 11-13 are non-statutory subject matter.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 6, and 11-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6.   In the particular instances of claims 11-13, claims 11-13 recite a "system". However, this "system" is comprised on intangible, non-concrete "logic" (i.e., mere rational thoughts) as discussed above in the §101 rejection. A "system" is considered to be equivalent to a "machine" as defined in §101, requiring physical components interconnected to function as a whole. As recited, claims 11-13 recite a "system" that is compromised of mere logic. It is vague and indefinite as to how a collection of mere logic (i.e. rationale thoughts) constitutes a "system" as defined by §101.

7.   In the instances of claims 1, 6, and 11, the preambles of claims 1, 6, and 11 assert the invention as a method, a computer program on a computer readable medium, and a system for scheduling and planning maintenance and service in a network-based supply chain. However, the steps, code segments, and logical components recited in claims 1, 6, and 11, respectively, do not accomplish the recited invention (i.e. there are no scheduling and planning

maintenance/service steps recited). Therefore, based on the limitations set forth in the claims, it

is vague and indefinite as to what the applicants regard as their invention.

8.   In the instance of claim 1, claim 1 comprises method steps presented as an aggregate list

of steps, i.e. some of these steps are not interrelated with the other steps recited therein. Steps (b)

and (e) discuss updating and altering items based on profile information of the users of a

network. Step (a) discusses monitoring the operation of pieces of a general-purpose computer in

a network environment, while step (c) discusses synchronizing some external generic data with

some internal generic data of the network and step (d) discusses managing contact information of

users. While the examiner can ascertain a relationship between steps (b) and (e), no clear

relationship can be drawn from the entirety of the steps to determine the method claimed as the

invention. Therefore, examiner respectfully renders this claim as indefinite for failing to

distinctly claim the subject matter that the applicants regard as their invention.

9.   As claim 1, claims 6 and 11 are rejected for containing aggregate lists of elements that

fail to distinctly claim the subject matter of the invention. In these specific instances, the

aggregate lists comprise code segments and logical components, respectively. The same

argument relied upon in reference to claim 1 is applied herein.

Claim Rejections - 35 USC § 102

10.   following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

11.   Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al.

(U.S. 6,067,525).

12.   As per claim 1, a method for scheduling and planning maintenance and service in a

network-based supply chain, comprising the steps of:

(a)   monitoring operation of entities selected from the group consisting of server processes,

disk space, memory availability, CPU utilization, access time to a server, and a number of

connections in a network-based supply chain (The limitations recited are system administration

functions. See column 8, lines 59-64, which discloses a system administrator subsystem for

handling administrative functions of the network);

(b)   updating items selected from the group consisting of merchandising content, currency

exchange rates, tax rates, and pricing in the network-based supply chain at predetermined

intervals (See column 29, lines 54-67, wherein Johnson et al. describes the price update process

utilized by the system).

(c)   synchronizing external data stored separately from the network-based supply chain (See

column 27, lines 25-33 and 40-60, which explains an example of introducing new information to

the system. See also column 7, lines 20-27);

(d)   managing contact information received from users of the network-based supply chain

(See column 13, lines 7-23, which discusses the customer module that gathers, stores, and

exchanges information, such as contact information, with the system. See also column 20, lines

10-13 and 30-38, which discloses the contact management module that also gathers, stores, and

exchanges contact information with the system. See also column 27, lines 33-37, 40-49, which

discusses the event of a change in a user's contact information); and

(e)   altering the items based on profiles of the users of the network-based supply chain(See

column 32, lines 46-67, column 33, lines 1-4, and column 34, lines 1-20, which disclose using an

intelligent system to direct incentive programs towards specific customers based on their profile

information. See also column 14, lines 21-30, which discloses the quotation module that uses the

shared information in the system's databases to present a specific user with an immediate and

accurate price quote that reflects all applicable prices, trade-in values, discounts, and taxes

associated with the user).

13.   As per claim 2, discloses a method further comprising the step of performing load

balancing services that initiate and stop processes as utilization levels vary in the network-based

supply chain (See column 8, lines 34-44 and 53-58, wherein the event manager's functionality is

disclosed. The event manager observes events occurring in the system and determines the

component to which the event should be routed in the distributed system).

14.   As per claim 3, teaches a method wherein the step of managing contact information

includes tracking responses to the users of the network-based supply chain (See column 19, lines

35-47, which discloses the customer contact module keeping track of contact and activity that

occurs between a user and the system).

15.   As per claim 4, discloses a method wherein one of the items altered based on the profiles

of the users includes price, and the price is altered to reflect a discount assigned to the user (See

column 14, lines 21-30, wherein the shared information in the system's databases is utilized to

present a specific user with an immediate and accurate price quote that reflects all applicable

prices, trade-in values, discounts, and taxes associated with the user. See also column 27-28,

lines 63-67 and 1-5, respectively, which discusses forecasting discount and price quote for a

customer. See also column 32, lines 46-67, column 33, lines 1-4, and column 34, lines 1-20,

which disclose using an intelligent system to direct specific incentive programs towards specific

customers).

16.   As per claim 5, teaches a method wherein prior to the synchronization of the external

data, a search is performed for the internal data in the network-based supply chain (See column

27, lines 9-25, which discusses the type of access granted to different components of the system.

Some components are allowed read/write capabilities while others are only allowed read.

Therefore, before external data is synchronized with the internal data of the system, this access is

searched. Also, see column 27, lines 25-33 and 40-60, which explains how the system searches

for occurrences of internal data that will be changed by external data entering the system).

17.   As per claims 6-10, claims 6-10 are article of manufacture versions of claims 1-5,

respectively. Since the specification provides nothing more than projected general computer

program code embodied on a general purpose computer readable medium, claims 6-10 are

rejected on the same grounds as the method of claims 1-5, respectively.

18.   As per claims 11-15, claims 11-15 are system versions of claims 1-5, respectively. Since

the specification provides nothing more than a system that is a network implemented method,

claims 11-15 are rejected on the same grounds as the method of claims 1-15, respectively.

19   As per claim 16, claim 16 is a duplicate claim of claim 15. Therefore the same rejection

applies to claim 16 as applied to claim 15 above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Meyering (U.S. 5,729,735) discloses synchronizing data between a central master

database and a remote database. Before changing data, the disclosed invention searches the

previously stored data and checks the access of the remote user to see if data synchronization can

occur.

Bhaskaran et al. (U.S. 6,157,915) discloses a network-based supply chain that allows for

collaboration between the role players of the supply chain. The method and apparatus rely upon

an open architectural framework that allows for synchronization and dynamic decision-making.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 746-7239 for regular

communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

bvd
April 8, 2002

KYLE J. CHOI
PRIMARY EXAMINER
/MT Unit 2163